

**UNITED STATES BANKRUPTCY COURT
DISTRICT OF NORTH DAKOTA**

In Re: Phillip W. Engen Debtor Phillip W. Engen, Plaintiff, v. U.S. Department of Education, Maximus Education, LLC d/b/a Aidvantage, Defendants.	Bankruptcy Case No. 23-30151 Chapter 7 Adv. Proc. No. 23-07010 JOINT MOTION TO DISMISS ADVERSARY PROCEEDING
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Phillip W. Engen (the “Plaintiff”) and Defendant Maximus Education, LLC d/b/a Aidvantage (“Aidvantage”) jointly request that the Court dismiss Defendant Aidvantage from this proceeding pursuant to Fed. R. Bankr. P. 7041, Fed. R. Civ. P. 41(a)(1)(A)(ii), and Local Rule 7007-1.

The Plaintiff and Defendant Aidvantage hereby stipulate and agree, through the undersigned counsel, that this action is dismissed without prejudice and without costs and fees as to either party pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure incorporated into this proceeding by Fed. R. Bankr. P. 7041. In support thereof, the parties state as follows:

1. Plaintiff filed an adversary complaint on August 7, 2023, naming as Defendants the United States Department of Education (“ED”), and Aidvantage, seeking discharge of certain student loans owned by ED.

2. Aidvantage asserts that it is a servicer of loans owned by ED and that it has no ownership interest in Plaintiff's loans. As a servicing agent only, Aidvantage is not the holder of the loans owned by ED and therefore cannot provide Plaintiff with the relief that he seeks under 11 U.S.C. § 523(a)(8). Accordingly, Aidvantage is not a proper party to this adversary proceeding.

3. The Parties conferred and agreed that, pursuant to Federal Rule of Bankruptcy Procedure 7041, the court should enter an order dismissing Aidvantage from this case without prejudice.

4. The Parties hereto agree that this Stipulation may be executed in counterparts, by facsimile and/or by electronic mail.

5. The Plaintiff and Defendant Aidvantage request that the Court enter an Order to this effect consistent with this Joint Motion to Dismiss Adversary Proceeding.

STIPULATION ACKNOWLEDGED AND AGREED TO BY:

KELLEY, WOLTER & SCOTT, P.A.
Attorneys for Aidvantage

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Dated: October 5, 2023

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Dated: October 5, 2023

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Certificate of Service

I hereby certify that on October 5, 2023 I electronically filed the foregoing document with the United States Bankruptcy Court for the District of North Dakota by using the CM/ECF system. I certify that the following parties or their counsel of record are registered as ECF Filers and that they will be served by the CM/ECF system:

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